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## THE DIRECT PRIMARY MOVEMENT IN NEW YORK

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The statewide direct primary became an issue of New York politics in 1909. But it was not because any considerable portion of the voters of the Empire State had been captured by the advancing doctrines of direct government. As in other States, apparently, the direct primary was forced to the front by the attempts of a group within one of the dominant parties to secure possession of the regular party machinery. Just as the convention was used by Jackson's belligerent followers to destroy the caucus system then in the full control of the old office-holding aristocracy, so the direct primary is employed in capturing old intrenchments. It has its great moral and philosophical justification, of course, but it is brought to play in the practical game of politics only when some decidedly strategic points can be captured by no other process.

To speak more concretely, the direct primary was carried forward in New York politics when the insurgent forces in the Republican party felt that there was no other way of capturing the established organization which had been discredited by the insurance investigation, the legislative scandals, and other serious exposures during the first years of the new century. It is true that the Citizens Union, the leading civic organization of New York City, had, from time to time, proposed direct nominations at Albany, and independent reformers had done the same thing on their own account, but it was not until 1909 that Governor Hughes recommended a statewide direct primary and took positive steps toward the formation of a definite legislative measure embodying his ideas.

From the beginning of his administration, however, he had been preparing the way for this move. Indeed, his election, at a time when the rest of the ticket—popularly called a “bosses’ slate”—went down to defeat, was regarded in some quarters as the repudiation of the “Old Guard” Republican organization. Many dissatisfied Repub-

licans began to see in Mr. Hughes a new leader who was to drive the money changers out of the temple.

How far Mr. Hughes was at first conscious of the actual division in his party which later manifested itself very definitely at the Saratoga Convention in 1910, is, of course, a matter for conjecture. It is likewise impossible to say to what extent he viewed the direct primary as an instrument to be used by the discontented elements in their assault on the regular organization. However, in his first message, January 2, 1907, he recommended "that an amendment [to the primary law] be passed providing with sufficient clearness that any general committee of a party may adopt a rule providing for direct nominations, and that thereupon voting at the primary shall be upon an official ballot, printed at the public expense. It is probable that under an unambiguous law of this kind the method will be adopted in one or more important counties, and there will thus be furnished a satisfactory test of the desirability of having a system of nominations by direct primary vote. Our own experience will then enable us to determine the wisdom of its extension."

He came back to the subject again in his message of January 1, 1908, and there was a slight note of battle in the paragraphs on direct nominations:

The urgent need for primary reform is generally recognized. There is wide difference between effective organization in the interest of the party and the misuse of such organization for purely selfish purposes. Within itself the party constitutes a democracy, and its members should be protected against despotic proceedings.

To prevent frauds provision should be made for an official primary ballot. But the form of the ballot should put all the enrolled voters upon an even footing, without any advantage to those who are in power for the time being and should encourage discrimination in the selection of representatives.

There should be unrestricted opportunity for the expression of the wishes of the members of the party in the selection of candidates for office. Only in this way can healthy party activity be secured. And in order that the enrolled voters should be encouraged to take part in party proceedings, and that the will of the party in the choice of candidates may be expressed, and not defeated by a perversion of party machinery, I am in favor of direct nominations.

I renew the recommendation made at the last session that provision should be made for such nominations, at the primary, of candidates for office. In my judgment it is advisable that the provision should take the permissive form; that a method of direct nominations shall be defined which party organizations may adopt by suitable

rule. I favor this course because I believed that in this manner legislation can be had which will secure a fair trial of the plan and pave the way for its general adoption in the light of persuasive experience.

A direct nominations bill which was said to have received the general approval of Mr. Hughes was introduced in the legislature (1908) by Senator Travis and Assemblyman Green. No direct vote on the bill was taken, in either House but a motion in the Assembly to discharge the Judiciary Committee from further consideration of the bill was defeated by an overwhelming majority. The Travis-Green bill was again brought up at the extra session of the legislature held in the summer of 1908, and was passed by the Senate but defeated in the Assembly. At that time Governor Hughes was too busy with the race track gambling legislation to devote much attention to the new issue.

It became quite apparent in the campaign for re-election in the Autumn that Mr. Hughes was not in entire harmony with the constituted leaders of his party. Indeed, acute observers early remarked that Mr. Hughes had been renominated by the Organization only because of the popular pressure that had been brought to bear from every direction. The breach in the Republican ranks soon became so wide that it was an issue in the campaign, and Mr. Hughes quite naturally regarded his re-election as an endorsement of the legislative policies which he had been advocating.

In his message of 1909 he took an uncompromising stand for a statewide direct primary law:

One of the most striking developments of recent years is the rapid growth of the demand for improved methods of nominating candidates for public office. It is a late phase of the long struggle against the control of the powers of government by selfish interests. Methods which make easy this control are doomed, for the people will not be content with the mere forms of self government.

There has been a notable progress in perfecting our electoral machinery and in the reduction of opportunities for corruption in connection with elections. But the part played by political parties in nominating candidates makes it necessary to regulate the nominating machinery as well, if the public interest is to be properly protected. As our citizens in general make their choice between the candidates offered by the opposing parties, we must ultimately depend for truly representative government upon the selection of these candidates in accordance with the wishes of the members of the respective parties.

This is recognized in theory and denied in practice. In theory party candidates are selected by those who have been chosen by the party voters to represent them in conventions. In practice the delegates to nominating conventions are generally mere pieces on the political chess board and most of them might as well be inanimate so far as their effective participation in the choice of candidates is concerned. Party candidates are in effect generally appointed, and by those who have not been invested with any such appointing power.

This practice is attended with serious consequences. It has a disastrous effect upon party leadership. The power of selecting candidates is so important that there is a constant temptation to protect it by such manipulations of the party machinery as will make it serve individual interests. Party principles and the essentials of successful administration of office are too largely subordinated to the necessities of political leaders and their retention of control. The fine service of party loyalty is prostituted to the base uses of those who make the maintenance of their individual power paramount to true party interests. And the just strength and dignity of party leadership often fails by reason of public contempt for methods frequently used to secure support for its counterfeit. Real leadership of ability and force of character suffers from such methods and would largely gain by increasing the difficulty of their pursuit.

The present system tends to discourage participation by the party voters in the affairs of the party. Entrenched power is so strong and the influence upon the choice of the party candidates is so remote that it requires an unusual situation to call forth the activities of the party members to the extent desirable.

The candidates selected by the present method too often and not unnaturally regard themselves as primarily accountable, not to their constituents nor even, broadly speaking, to their party, but to those individuals to whom they feel they owe their offices and upon the continuance of whose good will they deem their political future to depend.

But the most serious consequence is to the people at large. To the extent that party machinery can be dominated by the few the opportunity for special interests which desire to control the administration of government, to shape the laws, to prevent the passage of laws, or to break the laws with impunity, is increased. These interests are ever at work stealthily and persistently endeavoring to pervert the government to the service of their own ends. All that is worst in our public life finds its readiest means of access to power through the control of the nominating machinery of parties. Party organization needs constantly to defend itself from these encroachments, and the people for their proper security must see that the defenses are built as strongly as possible.

There have been and are conspicuous illustrations of party leadership won and held in opposition to those who have represented special interests, and endeavoring faithfully and honorably to perform its

proper function. But this does not alter the fact that our present method facilitates the control of government by those whose purposes are antagonistic to the public welfare. Nor should we be unmindful of the extent to which the force of enlightened public sentiment in indirect ways mitigates the evils inherent in our present system. But this sentiment works under conspicuous disadvantages, and it is a defect in our system requiring remedy that the actual power of nomination should reside with those who are under strong temptation to disregard the public interest in favor of private advantage so far as that course may be deemed to be safe.

When we inquire what remedy is available, it may be said that there is none which can be considered as complete, because human nature cannot be changed by legislation and opportunities for political mischief will exist under any system. But we may make improvement and these opportunities may be diminished. We should perfect our primary laws by providing for an official primary ballot, by extending our enrollment system and by placing our primary elections under substantially the same restrictions as our own general elections.

But we should go beyond this. As the evil so largely resides in the perversion of representation we should further proceed along the line of progress by restoring effectively to the many the powers which properly belong to them and have been usurped by the few. What history has shown to be essential to the protection of the people is likewise needed for the protection of parties, and thus ultimately for the reinforcement of public rights. We have decided not to trust despotism, though occasionally it may be benevolent, nor do we favor government by aristocracy. Experience has shown that the people can be better trusted than their self-constituted guardians.

The rule of the people involves vigorous discussion and popular contests, but we are finally committed to it because in the long run our safety depends upon it.

If we apply these principles to our party activities we shall make them the more wholesome, as they will more readily respond to the intelligent and conscientious purposes of the party members.

The time has come, I believe, when nominations by all parties for elective offices should be made directly by the enrolled voters of the parties respectively. This will promote true party representation. It will tend to strengthen and dignify party leadership by making it less susceptible to misuse and more in accord with general party sentiment. By increasing the direct influence of the party voters their participation in party affairs will be encouraged. It will make the elective officer more independent of those who would control his action for their selfish advantage, and enable him to appeal more directly to his constituency upon the basis of faithful service. It cannot fail in the main to prove a strong barrier against the efforts of those who seek, by determining the selection of candidates, to pervert administration to the service of privilege or to secure immu-

ity for law-breaking. It is a reform which is instinct with the spirit of our institutions, and it is difficult, to see how any party man, however, earnest in his partisanship, can oppose the right of the voters of the party really to decide who shall represent them as candidates.

The object of our primary legislation has been said by the Court of Appeals to be 'to permit the voters to construct the organization from the bottom upwards, instead of permitting leaders to construct it from the top downwards.' This is not only important with regard to offices in the organization, but the object cannot be effected so long as nominations may be dictated and the power to make them does not actually reside with the party voters.

I therefore recommend a system of direct nominations by all parties for all elective offices, other than those of presidential electors, filled at the November election or at special elections called to fill vacancies in such offices. Heretofore I have suggested that it be made permissive, because it was believed that such a provision would rapidly lead to its general extension. But the objections urged to this course and the strength which the movement for direct nominations has gathered have produced the conviction that we should decide upon a policy binding upon all parties. In this State the way has been prepared by the method of party enrollment now in use in portions of the State and by our familiarity with provisions designed to prevent corrupt practices and frauds at elections.

Shortly after the publication of his message, Mr. Hughes outlined his own plan for direct nominations in a speech delivered in Brooklyn before the Young Men's Republican Club. Some members of this club, acting, doubtless, on the suggestion made in the Governor's speech, drafted a measure for introduction in the legislature. This measure contained, however, some features which were not acceptable either to Mr. Hughes or to the up-State Republicans interested in direct nominations. Accordingly, a group of direct primary advocates, including some representatives of the Young Men's Republican Club, drafted a new bill embodying all of the fundamental ideas which had been advocated by Mr. Hughes—especially the scheme for allowing a duly constituted party committee to designate candidates for nomination to the several offices.<sup>1</sup> This bill was introduced in the Assembly by Mr. Green of Kings County, and in the Senate by Mr. Hinman of Broome. It was strongly supported by the Republican followers of Mr. Hughes, and was severely attacked by his opponents in both parties. While a few of Mr. Hughes' friends criticised the bill

<sup>1</sup> This system is fully described in an article by Mr. Arthur C. Ludington, *Political Science Review* for August, 1909.

in principle, it was commonly understood that a fight had been begun between the Organization and the Hughes elements in the Republican party. The victory for the time being lay with the former, for the Hinman-Green bill was sadly defeated in both Houses by the adoption of the adverse reports made by the Judiciary Committees to which the Bill had been submitted.

The legislature, however, did not treat the direct primary as a wholly dead issue, for by concurrent resolution, adopted on April 29, 1909, a joint committee of the Senate and Assembly was created, and directed

to examine into, consider and investigate the operation, efficiency and results of the so-called direct primary law for the nomination of candidates for elective offices in other States of the United States as well as the laws of this State regulating the conduct of party primaries and conventions, and, generally, into all matters pertaining to the election laws, for the purpose of determining what amendments, if any, to the present laws of laws governing primaries and elections are needed, the same, or what other further legislation may be needed upon the subject, and to report its recommendations to the Legislature on or before the first day of February, nineteen hundred and ten, together with proper and necessary bills to carry into effect its recommendations if such recommendations require it.

This committee, headed by Mr. Meade from the Senate and Mr. Phillips from the Assembly, was composed of strong opponents to direct nominations, but it sought to bring out in its hearings both sides of the question, although there is no doubt that emphasis was laid upon the shortcomings of the new system. Sessions were held during the summer and autumn in Boston, Philadelphia, Harrisburg, Pittsburgh, Topeka, Des Moines, Saint Paul, Madison, Milwaukee, Chicago, Indianapolis, Detroit, Buffalo, and New York City. The stenographic report of the testimony taken by the Commission was not printed, but a digest of the evidence was laid before the Legislature in February, 1910, under the title, *Report of the Joint Committee of the Senate and Assembly of the State of New York, appointed to Investigate Primary and Election Laws of this and other States.*

As had been expected, the report of the committee was decidedly adverse to direct nominations. The committee claimed that the direct nomination schemes were still in an experimental stage and that there was a wide diversity of opinion among wise and patriotic citizens as to their desirability as a means of selecting candidates for elective offices.



The committee proposed to meet the demand for primary reform by a series of provisions including a uniform primary day throughout the State, state-wide enrollment of party voters, an official primary ballot for each party printed at public expense, the election of party, town, county and ward, committeemen by direct vote at the primary, the abolition of intermediate conventions for electing delegates to other conventions, the establishment of vote by roll-call in conventions, and the "Short Ballot."

The report of the committee had slight weight with the advocates of direct nominations on account of the fact that it was esteemed to be an ex-parte document, and Governor Hughes in his message to the Legislature on January 5, 1910 showed that he was more firmly than ever convinced of the desirability of the new system. He said:

In my message last year I stated the reasons which have led me to favor the adoption of a system by which party candidates for elective offices shall be nominated directly by the party voters. It is unnecessary to repeat them. They are based upon facts commonly known and upon the existence of evils which arguments cannot explain away and to the continuance of which the people remain unrecconciled. The ordinary party member, who cannot make politics a vocation, feels that he is practically helpless, a victim of a system of indirect, complicated and pseudo-representative activities which favor control by a few and make party candidates to a great extent the virtual appointees of party managers. Party voters are largely out of sympathy with their party organization because they believe that its powers are abused and its purposes perverted.

Favoritism in departments of administration, the nonuse or misuse of supervisory powers, and the shaping or defeat of legislation to protect particular concerns or interests—in short, the degree of success which has attended the efforts of those who have not been entrusted with governmental authority to dominate the action of public officers and to place and keep in power those who will be amenable to their control—may be traced in large measure to the methods which have been in vogue in making party nominations. Through these abuses not only has the general public suffered, but parties themselves have had their efficiency impaired. And even those who have sought ably and honestly to direct party affairs, have, to some extent, been involved in the disrepute which has followed upon the manipulations of the unscrupulous. A system which favors autocracy in party government is opposed to every proper interest.

Against the proposed change has been urged the familiar argument that human nature cannot be altered. But the present system is not an essential part of human nature. Our keen appreciation of the failings, weaknesses and temptations which must always be conspicuous in human activity should not cause us to yield to the counsel of

despair, but should rather stimulate the effort to make every possible improvement in the methods of political action. The fact that human nature cannot be changed is no reason why we should not provide safe-guards against the play of its infirmities.

It should also be observed that while in considering remedies we should avail ourselves of all pertinent information and experiment, we must ultimately deal with the facts of our own experience. Variant conditions in the different States may be useful for the purposes of our general history but can afford slight help in the solution of our own problems. Arguments derived from opinions which are addressed to a different state of facts or to measures not analogous are of slight value.

There is no matter of graver public concern than the methods of party action. Our officers of government are usually those selected by one or the other of the two great national parties. The Constitution of the State expressly recognizes political parties and confides in equal representation, to such parties as cast the highest and next highest number of votes at general elections the discharge of the important public duty of registering voters, distributing ballots to voters at the polls and of receiving, recording and counting the votes of electors. Political parties which enjoy these privileges and opportunities cannot justly be regarded as mere associations whose methods and transactions lie outside the domain of reasonable and impartial regulation in the public interests. It is of the highest consequence to the party voters and to the public at large that so far as possible there should be protection against abuses in the conduct of party affairs.

There must be party committees and those who take charge of the management of campaigns, and are entrusted with the supervision of party administration. But the method of their selection should provide proper checks upon efforts to defeat the wishes of the party voters or to perpetuate their power by using the party machinery for their own advantage. Members of party committees should take and hold title to their offices through the direct choice of the party voters to whom they should be directly accountable. . . .

I also renew the recommendation that a system of direct nominations by all parties for all elective offices, other than those of presidential electors, filled at the November election or at special elections called to fill vacancies in such offices, be provided.

Primary elections should not only be safeguarded, but they should accomplish their purpose, and that is to make the participation of the voters effective and their wishes decisive in the selection of those who are to hold party positions and of party candidates for office. The party voters can act more intelligently in the direct choice of candidates than in the choice of delegates. The former are publicly discussed their qualifications are analyzed; the genesis of their candidacies is considered; and the public opinion of the respective districts may be ascertained. Delegates at the best are uncertain, and public atten-

tion cannot be riveted upon them to the same degree. If they are absolutely pledged they are simply registering devices and an unnecessary and a cumbersome addition to the party machinery. If they are not pledged absolutely the party voter has no proper assurance either of their allegiance or of their deliberation. They lend themselves easily to secret control by party managers and furnish the means not for true representation, but for nonrepresentation, or misrepresentation of the party. It is not difficult to provide, and provision should be made, for all necessary consultation and recommendations by party leaders. But they do not constitute the party and their recommendations, which should be made in a responsible and public manner, as well as other proposals of candidacies should be subject to the final decision of the party voters.

It is no more complicated or expensive to have a primary election, under due protection and with an official ballot, at which the party nominees shall be directly chosen, than to have a similar election of delegates. There are no greater opportunities for fraudulent practices in the former case than in the latter, nor as many. It is difficult to interest the people in intermediaries, and general participation of the voters in the primaries is conditioned upon their appreciation of the fact that they accomplish something by such participation. If it be desired to have the form without the substance, to have representatives who as a rule do not represent and those chosen for deliberation who usually do not deliberate, and to transfer the absolute decision to party leaders with the alternative to the party voter of bolting his ticket and meeting the reproach of party disloyalty, the present system may be defended. But if it be desired to have true party representation and that the party members should express decisively their wishes, this may be accomplished through a direct vote.

Following the recommendations of Governor Hughes, the Hinman-Green bill was again introduced in the legislature with the modification that the system of designation by committees should be regarded as optional and not mandatory.

At the instance of the committee appointed to investigate direct nominations, another primary measure, bearing the names of the chairman and vice-chairman, Mr. Meade and Mr. Phillips, was introduced in the legislature. This bill embodied the principles laid down by the committee in its report, and left the convention system undisturbed. In a special message Governor Hughes declared that the bill was "not a grant but a denial of needed primary reform."

A third primary law, introduced by Mr. Grady in the Senate and Mr. Frisbie in the Assembly representing the Democratic League, provided for the nomination of certain candidates by direct vote, but exempted New York City from the operation of the law.

A fourth primary bill was introduced in the Senate at the instance of Mr. Cobb shortly after his election to majority leadership on the unhappy downfall of Mr. Allds. This bill, brought forward by the Senate Judiciary Committee, was a compromise measure, and provided for the direct nomination of candidates for the State legislature, county offices and the House of Representatives. It furthermore exempted the county officers of New York City from the operation of the law in the years in which mayoralty elections were held.

None of these bills, however, became a law at the regular session of the legislature (1910), and Governor Hughes to force the issue called a special session for the purpose of compelling a straight forward consideration of the question of direct nominations. At this special session every effort was made to bring the friends of direct nominations together, and the Cobb bill, with slight modification, was introduced in the legislature as a compromise measure. The supporters of Governor Hughes wheeled all their forces into line, and Mr. Roosevelt publicly called upon the members of his party to aid in the passage of the measure. In spite of all the powerful influences that could be brought to bear, the special session adjourned without enacting any direct primary legislation.

It was perfectly evident, even to casual observers, that the defeat of the new proposal was due to a bi-partisan combination of Republican and Democratic organization leaders. Accordingly, the advocates of the direct primary in both parties set vigorously about the task of committing their respective state conventions to the new cause. As a result, both of the old parties accepted the principle of direct nominations in some form. The Republican convention declared as follows:

To Governor Hughes is due the credit of arousing the interest of the people and convincing them of the need of directly electing their party officers and directly nominating their party candidates. We promise legislation which will enact these principles into law.

The Democratic convention came out even more emphatically:

We declare in favor of state-wide direct primaries to ensure to the people the right to choose members of political committees and nominate candidates for public office.

The election of November, 1910, gave the victory to the Democrats and the government of the commonwealth is now in the hands

of a party definitely committed to a system of state-wide direct primaries. So things stand at the beginning of the year 1911.<sup>2</sup>

<sup>2</sup> In his message to the legislature, January 4, 1911, Governor Dix said: "I strongly recommend to you a revision of the election and primary laws of the State, so as to provide for a system of direct nominations—state-wide in its application—which shall insure to the people the right to choose members of political committees and nominate candidates for public office. The more completely the people are brought into close touch with these most important matters, and the more they can be induced to take part in their party primaries, the stronger and more healthy will be the atmosphere of public confidence surrounding party nominations, and the more likely the vast majority of our citizens to exercise the right of suffrage on election day."